

Docket Clerk, US DOT Dockets

Room PL-401, Department of Transportation

4000 7th St. SW, Washington DC 20590-0001

RE: Docket No. MARAD 2004-17166

Dear Sir or Madam:

On February 27, 2004, the US Maritime Administration (MARAD) and the Department of Transportation (DOT) welcomed the public's opinion and comments on the draft Environmental Assessment on the Transfer of National Defense Reserve Fleet Vessels from the James Rivers Reserve Fleet for Disposal at Able UK Facilities, Teesside, UK.

The draft EA fails to establish that there are no significant risks facing the affected communities and environment both in the US and UK and in the global commons. This failure stems from the draft EA's failure to present crucial data or critical alternatives in its analysis. The following are important points that the draft EA must elaborate:

1. The EA should have provided an actual study of the nine remaining vessels instead of making a blanket assurance that things are safe and operational, without the corresponding proof of such assertions. We need to ask MARAD and EPA to:

[Provide data on the hull conditions and materials remaining in the vessels (see Section 3.7);

[Provide an inventory of all of the hazardous wastes in the 9 vessels (see Section 3.8); and

[Provide an inventory of oils, and contaminated or oily bilge and ballast water, etc. (see Section 3.8)

2. MARAD must state the facts - that AbleUK does not have the necessary permits in place to undertake this scheme and there are strong doubts that such permits will be put in place in the near future, if ever. The EA should address the following issues: the actual lack of existence of those permits, the consequences of the failure to obtain or the revocation of those permits. Lack of such permits violates the OECD agreement on shipments of wastes for recycling implemented in the Resource Conservation and Recovery Act (RCRA) under which this export was allowed. (Check out and reference the UK Environmental Agency's position in denying the permits at: http://www.environment-agency.gov.uk/subjects/waste/588494/?version=1&lang=_e)

3. Further, the export circumvents the Toxics Substances Control Act's ban on the export of PCBs. Such export is forbidden in the absence of an exemption granted following a special rulemaking procedure that was not obtained from EPA to waive the ban.

4. In its discussion of the environmental effects, Section 4.0 of the draft EA, the draft EA offers a misleading limited choice between the proposed action alternative (sending to the UK) and a no action alternative (keeping the vessels in the James River). The EA should have included a third alternative -- a critical environmental analysis of conducting the ship breaking in the US,

including a recognition that minimizing dangerous towing operations will minimize the environmental risk as well as energy use.

5. MARAD must also include analysis of a fourth option in the EA -- prior decontamination of all oils and hazardous wastes as near to the site of origin as possible, prior to any further recycling, at home or abroad.

6. MARAD claims insufficient US domestic recycling capacity. Then it should justify why several US ship recyclers were denied the contract given that Able UK cannot even perform its present obligation and given the fact that these same US recyclers in fact claim that they have adequate capacity to recycle the ships while helping to build the recycling infrastructure in this country and providing jobs. (see Needless Risk report pages 14-15). (Section 2.3.1).

7. There is a need to raise environmental and health issues on other hazardous materials that were not mentioned in the EA, particularly PCBs in paints, cadmium, lead, mercury, etc. The effects of all hazardous materials on the environment during towage and in the case of a loss at sea or in coastal waters must be explored thoroughly in the EA. (related to Section 3.8 of the draft EA)

8. The draft EA discusses a catastrophic oil spill plan, but does not disclose such plan despite the requirement to assess risks of natural disasters and unique and uncertain risks. MARAD should provide this plan, and it should also explore the simple option of pumping out all the oil and oily bilge and ballast waters while the vessels are sitting in the James River. (Section 4.3)

9. The coast guard towing permit is hardly a guarantee against losses, as history can demonstrate. Yet, the draft EA does not assess the likelihood or potential impacts of a possible leak, spill or sinking en route caused by unseaworthiness, mechanical failure or act of god.

10. MARAD discusses in the draft EA the number of dead tows performed in 2003, but includes no data on the numerous historical failed dead tow attempts or the reasons for the failures. Nor does MARAD assess the risks of tandem dead tows, the fact that the US navy does not allow tandem tows, or the uninsurability of such tows. (Sections 4.7.4 and 4.8.1)

11. The scope of review inappropriately excludes environmental impacts to the global commons (high seas) and the United Kingdom.

12. The Draft EA fails to assess risks to human health (e.g. from uptake of PCBs in marine environment, or from washed up airborne asbestos, or occupational hazards).

Thank you for the opportunity to bring these remarks to your attention.

Mindful of the enormous responsibilities which stand before you, I am,

Yours sincerely,
Robert E. Rutkowski

cc:
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